

Seizure of drug related property and use of the proceeds
(HB 1078 by Berlanga/Green)

DIGEST: HB 1078 would have made several changes in the provisions for seizure of property under the Controlled Substances Act. An owner contesting a seizure would no longer have been required to meet a filing deadline of 20 days from the mailing or publication of notice of seizure. The bill also would have deleted the requirement that the answer be sworn.

The bill would have allowed an attorney for the seizing agency to represent the state. The amount of the forfeiture proceeds required to be used for drug treatment or prevention programs would have been raised from not more than 10 percent to not less than 25 percent. Use of proceeds for treatment would no longer have been optional and based on a request by a governing body. The bill would also have added a requirement that such programs be community based and licensed by the Texas Commission on Alcohol and Drug Abuse.

GOVERNOR'S
REASON
FOR VETO:

If the requirement for a sworn answer and the requirement that it be filed within 20 days were both deleted, then drug dealers could go to court at any time and lie with impunity to recover the proceeds of their illegal activity, the governor said.

Giving up to 10 percent of the proceeds to drug treatment and prevention programs strikes the proper balance between those programs and enforcement activities. A mandatory 25 percent would remove local discretion.

AUTHOR'S
VIEW:

The veto was very unfortunate and really shortsighted, especially when the governor is supporting a war on crime, said Rep. Hugo Berlanga. We have an enormous drug problem, and in the long run, drug treatment and education are the only hope for a long-term solution.

NOTES: HB 1078 passed the House on the Consent Calendar and was not analyzed in a Daily Floor Report.